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BONEWELL et al. v. SMITH et al.

March 15, 1917.

[91 S. E. 759.]

1. Descent and Distribution (§ 39*)—Descent from Infant—Statute.—Under Code 1904, § 2556, providing that if an infant die without issue, having title to realty derived by gift, devise, or descent from a parent, the whole shall descend and pass to his kindred on the side of the parent from whom it was derived, if any such be living, and that, if there be none such, it shall descend and pass to his kindred on the side of the other parent, on failure of issue of an infant last seised of realty, the inheritance descends to the infant's kindred on the side of that parent from whom the realty was derived, when there are such kindred living at the death of the infant; that is, the statute does not permit ascension beyond the infant's parent, to the grandparent, or to any other ancestor of the infant, in order to reach the first purchaser as the root from whom the inheritance shall descend, the parent only being made such root, whether or not he be the first purchaser.

[Ed. Note.—For other cases, see Descent and Distribution, Cent. Dig. §§ 112-115.* 4 Va.-W. Va. Enc. Dig. 614.]

2. Descent and Distribution (§ 21*)—Descent from Infant—Statute—"Kindred."—The word "kindred," used in the statute, has the meaning of "next of kin."

[Ed. Note.—For other cases, see Descent and Distribution, Cent. Dig. §§ 57-62.* 4 Va.-W. Va. Enc. Dig. 591.

For other definitions, see Words and Phrases, First and Second Series, Kindred.]

Appeal from Circuit Court, Warwick County.

Suit by J. F. Bonewell and others against Johnson D. Smith and others. From a decree dismissing the bill on demurrer, plaintiffs appeal. Affirmed.

Nelms, Colonna & McMurran, of Newport News, for appellants.

F. S. Collier, of Hampton, for appellees.

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.